

REMARKS

By the above amendment, the status of the parent application has been updated claims 1-10 have been cancelled without prejudice or disclaimer of the subject matter thereof and claim 11 has been amended in a manner which overcome the rejection of claim 11 and its dependent claims under 35 U.S.C. §112, second paragraph. Additionally, new dependent claims 21 and 22 have been presented.

With regard to the objection to the drawings that Figure 4 should be designated by a legend such as --Prior Art-- because only that which is old as illustrated, such objection is traversed as being improper. Applicants submit that the Examiner has mischaracterized Figure 4 in that when Figure 4 includes the structural arrangement as illustrated in Figures 1A-1C and 2A-2B, for example, Figure 4 is representative of the present invention, and is not "Prior Art". It is noted that the parent application has issued as U.S. Patent No. 6,348,759 as examined by the present Examiner herein and Figure 4 is not labeled as "Prior Art" in such issued patent. Additionally, the grandparent which issued as U.S. Patent No. 6,144,151 also does not have Figure 4 labeled as "Prior Art" and Applicants submit that for consistency purposes with regard to having the same drawings in the grandparent, parent and continuing applications, the objections that Figure 4 be labeled as "Prior Art" be withdrawn. It is noted that such objection is traversed, for the reasons given above and accordingly withdrawal of the objection is respectfully requested.

As to the rejection of claims 1-20 under 35 U.S.C. §112, second paragraph, by the present amendment, claims 1-10 have been cancelled and claim 11 has been amended taking into consideration the Examiner's

comments such that claim 11, as amended and its dependent claims should now be considered to be compliance with 35 U.S.C. §112, second paragraph.

In setting forth the rejection of claim 11 under 35 U.S.C. §112, second paragraph, the Examiner indicates indefiniteness in the last three lines of claim 11 and that the specification does not support "the speed-modulation coil installed surrounding a portion [of the envelope?] across a first division electrode." Reference is made to Figure 4 of the drawings of this application and the indication at page 2, lines 21 and 22 that an electromagnetic coil 34 for speed modulation is further provided around the neck portion 21. As described at page 14, lines 14-16 of the specification, the speed-modulation coil is installed surrounding the neck portion extending across the first division electrode 61, second division electrode 62 and the anode 7. By the present amendment, claim 11 has been amended to recite the feature that the speed-modulation coil is installed so as to surround a portion of an envelope of said color cathode ray tube where at least said first division electrode and said second division electrode of said focusing electrode of said electron gun are disposed. Applicants submit that such features are clearly described in the specification in this application and may be considered to be illustrated in Figure 4 when the electron gun arrangement in accordance with the present invention is located therein. It is noted that newly added dependent claims 21 and 22 further define a portion of the envelope as being a neck portion and that the coil extends in the direction of the tube axes in the region of the first division electrode and the second division electrode of the focus electrode and the anode as described in the specification of this application. Applicants submit that such features as recited are in compliance with 35 U.S.C. §112,

such that claim 11 and its dependent claims should now be considered to be in compliance with 35 U.S.C. §112, second paragraph.

As to the rejection of claims 1-15 and 17-20 under 35 U.S.C. §102(e) as being clearly anticipated by Watanabe et al. (U.S. Patent No. 5,814,930) this rejection is traversed insofar as it is applicable to the present claims and reconsideration and withdrawal of the rejection are respectfully requested.

At the outset, as to the requirements to support a rejection under 35 U.S.C. § U.S.C. 102, reference is made to the decision of In re Robertson, 49 USPQ 2d 1949 (Fed. Cir. 1999), wherein the court pointed out that anticipation under 35 U.S.C. §102 requires that each and every element as set forth in the claim is found, either expressly or inherently described in a single prior art reference. As noted by the court, if the prior art reference does not expressly set forth a particular element of the claim, that reference still may anticipate if the element is "inherent" in its disclosure. To establish inherency, the extrinsic evidence "must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill." Moreover, the court pointed out that inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient.

In applying Watanabe et al. to the feature of claim 11, the Examiner contends that a speed-modulation coil is represented by the yoke 30 of Watanabe et al. Applicants submit that such is a mischaracterization of Watanabe et al. Referring to Figure 4 of the drawings of this application, it is noted that in addition to a speed-modulation coil 34 surrounding the neck

portion 23, that as described at page 2, lines 16-18 of the specification of this application, “a deflecting device 29 is so provided as to surround a transition region between the neck portion 21 and the funnel portion 22”. (emphasis added) Such deflecting device 29 is represented by the yoke portion 30 of Watanabe et al., which in column 1 lines 44-46 of Watanabe et al. is described as “The deflection yoke 30 is mounted in a transition region between funnel portion 22 and the neck portion 23”. (emphasis added) Thus, contrary to the position set forth by the Examiner, Watanabe et al. only discloses a deflection yoke corresponding to the deflection device 29 of Figure 4 of the drawings of this application which is not a speed-modulation coil as represented by the speed-modulation coil 34 of Figure 4 of the drawings of this application. A deflection device is not a speed-modulation coil, irrespective of the contentions by the Examiner. Furthermore, it is readily apparent from the disclosure in Watanabe et al. that the deflection yoke 30 thereof is not installed so as to surround a portion of an envelope of said color cathode ray tube where at least said first division electrode and said second division electrode of said focusing electrode of said electron gun are disposed as now recited in claim 11 of this application. Applicants note that referring to Figure 1 of Watanabe et al. 29 represents an in-line type electron gun disposed in the neck portion 23 and the deflection yoke 30 thereof is disposed in the transition region between the funnel portion 22 and the neck portion 23. As such, irrespective of the Examiners contentions concerning Watanabe et al. having first and second divisional electrodes and other features of the present invention, it is readily apparent that Watanabe et al. does disclose a speed-modulation coil installed at the position set forth in claim 11 and the

dependent claims thereof. thus, Applicants submit that claims 11 and the dependent claims thereof patentably distinguish over Watanabe et al. in the guise of 35 U.S.C. §102 and should be considered allowable thereons.

It is noted that the Examiner indicates that “Watanabe et al. are silent as to the speed-modulation coil controlling the scanning speed of the electron beams, however, speed-modulation coil conventionally control the scanning speed of the electron beams. Official notice taken. It would have been obvious to one skilled in the art to use the speed-modulation coil to control the scanning speed of the electron beams, because such functionality is conventional.” Applicants submit that this position by the Examiner is a recognition that Watanabe et al. does not disclose the claimed features in the sense of 35 U.S.C. §102 and in accordance with the requirements to support a rejection under 35 U.S.C. §102 as set forth in In re Robertson, supra. Furthermore, Applicants challenge the taking of “Official notice in accordance with the procedure set forth in MPEP §2144.03, and submit that the taking of Official notice is not proper in light of the decision of In re Lee, 61 USPQ 2d 1430 (Fed. Cir. 2002) wherein the court in reversing an obviousness rejection indicated that deficiencies of the cited references cannot be remedied with conclusions about what is “basic knowledge” or “common knowledge”. The court pointed out:

The Examiner’s conclusory statements that “the demonstration mode is just a programmable feature which can be used in many different device[s] for providing automatic introduction by adding the proper programming software” and that “another motivation would be that the automatic demonstration mode is user friendly and it functions as a tutorial” do not adequately address the issue of motivation to combine. This factual question of motivation is immaterial to patentability, and could not be resolved on subjected belief and unknown authority. It is improper, in determining whether a person of ordinary skill

would have been led to this combination of references, simply to "[use] that which the inventor taught against its teacher."... Thus, the Board must not only assure that the requisite findings are made, based on evidence of record, but must also explain the reasoning by which the findings are deemed to support the agency's conclusion. (emphasis added)

For the foregoing reasons, it is apparent that Watanabe et al., contrary to the position set forth by the Examiner does not disclose a speed-modulation coil nor a speed-modulation coil installed at the position as set forth in claim 11 such that claim 11 and the dependent claims patentably distinguish over Watanabe et al. in the sense of 35 U.S.C. §102. Furthermore, the newly added dependent claims 21 and 22 more particularly define the structural arrangement of the speed-modulation coil which is contrary to the disclosure of Watanabe et al. in the sense of 35 U.S.C. §102 or 35 U.S.C. §103. Accordingly, Applicants submit that claim 11 and the dependent claims patentably distinguish over Watanabe et al. and should be considered allowable thereover.

With regard to the rejection of claims 1, 3 and 4 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,348,759; the rejection of claims 2, 5 and 6 under the judicially created doctrine of obviousness-type double patenting is being unpatentable over claims 2, 5 and 6 of U.S. Patent No. 6,348,759; the rejection of claim 11 under judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 U.S. Patent No. 6,348,759; of a rejection of claims 12, 15 and 16 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 2, 5 and 6 of U.S. Patent No. 6,348,759; and the rejection of claims 1 and 11 under the judicially created doctrine of obviousness-type double

patenting as being unpatentable over claims 1 and 5, respectively of U.S. Patent No. 6,141,151; as recognized by the Examiner such rejections can be overcome by the filing of a Terminal Disclaimer. Although claims 1-10 have been canceled and without acquiescing in the propriety of the obviousness-type double patenting rejections in relation to pending claims 11-22, in order to expedite issuance of a patent in this application submitted herewith is a Terminal Disclaimer with respect to the parent and grandparent patents of the present application. Accordingly, the obviousness-type double patenting rejections as set forth by the Examiner should now be over.

In view of the above amendments and remarks and the submission of the Terminal Disclaimer with the appropriate fee therefore, Applicants submit that all claims present in this application should now be in condition for allowance and issuance of an action of a favorable nature is courtesy solicited.

Attached hereto is a marked-up version of the changes made to the specification and claims by the current amendment. The attached page is captioned **“Version with markings to show changes made.”**

To the extent necessary, Applicants petition for an extension of time under 37 CFR §1.136. Please charge any shortage in the fees due in connection with the filing of this paper, including extension of time fees, to

Deposit Account No. 01-2135 (Case No. 501.36686CC2) and please credit
any excess fees to such deposit account.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read 'Melvin Kraus', written over a horizontal line.

Melvin Kraus
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JND/kmh

VERSION WITH MARKSING TO SHOW CHANGES MADE

IN THE SPECIFICATION:

Please replace the paragraph at page 1, line 5, with the following rewritten paragraph:

This is a continuation of U.S. application Serial No. 09/702,654, filed November 1, 2000, now U.S. Patent No. 6,348,759, which is a continuation of U.S. application Serial No. 09/182,437, filed October 30, 1998, now U.S. Patent No. 6,144,151, the subject matter of which is incorporated by reference herein.

IN THE CLAIMS:

Please cancel claims 1-10 without prejudice or disclaimer the subject matter thereof.

Please amend claim 11 as follows:

11. (Amended) A color cathode ray tube, comprising:

at least an electron gun, constituted by a cathode for forming a plurality of electron beams arranged in-line, and a focusing electrode and an anode constituting a main lens for focusing and accelerating said electron beams;

a fluorescent screen; and

a speed-modulation coil for controlling a scanning speed of said electron beams;

wherein said focusing electrode and said anode are arranged in order from said cathode side toward said fluorescent screen side in an axial direction of the tube;

said focusing electrode includes at least a first division electrode and a second division electrode arranged with a gap in the axial direction of the tube;

said second division electrode is opposed to said anode and has, in an opposed surface thereof, a single opening for passing said plurality of electron beams in common;

a length of said first division electrode in the axial direction of the tube is longer than a length of said second division electrode in the axial direction of the tube;

the length of said second division electrode in the axial direction of the tube is not smaller than the diameter of said single opening in the surface of said second division electrode in a direction at right angles with the in-line direction; and

said speed-modulation coil is installed [surrounding a portion across] so as to surround a portion of an envelope of said color cathode ray tube where at least said first division electrode and said second division electrode of said focusing electrode of said electron gun are disposed.